



DEPARTMENT OF BUSINESS AND INDUSTRY  
**NEVADA TRANSPORTATION AUTHORITY**

**MINUTES OF THE September 23, 2012 GENERAL MEETING**

Due to the expected high level of interest in Item 73 coupled with the limited capacity of the Authority's facilities, the Authority noticed and heard **Item 73** at **1:30 pm.**, preceded and followed by additional public comment periods.

**AGENDA**

**1. Call to Order**

*Chairman MacKay called the General Session to Order at approximately 9:37 a.m.*

**2. Roll Call**

*Present in Las Vegas: Chairman Andrew J. MacKay, Commissioner Monica B Metz, Commissioner George Assad, Administrative Attorney James Day, Applications Manager Liz Babcock, Financial Analyst Yvonne Shelton, Financial Analyst Lidia Aronova, Chief of Enforcement Michael Bradford, and Senior Deputy Attorney General David Newton. Present in Reno: Deputy Commissioner Marilyn Skibinski.*

**3. Pledge of Allegiance**

*Ryan Sunga, Deputy Attorney General for the Taxicab Authority, led a recital of the Pledge.*

**4. Public Comment:**

*None*

**5. Approval of Agenda**

*Item 12 was pulled from the agenda as the Hearing Officer had granted a set aside and the matter had been reset for hearing. Approved 3-0.*

**6. Approval of the Minutes of the August 23, 2012 Agenda Meeting**

*Approved 3-0.*

**7. Briefings from the Commissioners**

*Commissioner Metz stated the last of the model tow tariff conversions were on today's agenda and thanked Staff for their outstanding effort. Commissioner Assad echoed Commissioner Metz's comments. Chairman MacKay concurred with the prior comments and added a special thanks to Commissioner Metz for all her efforts on the model tow tariff. Chairman MacKay also welcomed the visitors present in the Reno office from the Nevada Department of Transportation.*

## **8. Briefing from the Deputy Commissioner**

*Deputy Commissioner Skibinski stated that the agency has opened a selective recruitment for the open investigator positions.*

## **9. Report of Legal Counsel**

*Senior Deputy Attorney General Newton stated the opening brief was filed in the Handicab matter and he is awaiting the Court's ruling on the final extension requested by Handicab. The appealed Déjà Vu matter will go back to the Taxicab Authority via the Nevada Transportation Authority and may appear on the next subsequent general session agenda.*

## **ADMINISTRATIVE CITATIONS AND IMPOUNDMENTS**

*Items 10, 11, 18, 25, 26, 27, 35, 36, 40 and 41 were pulled for separate consideration. All remaining items were Approved 3-0.*

**10. Citation 16131** issued to Rene Aquino-Polanco for a violation of NAC 706.376. (AJM)  
*Respondent requested to set aside the FTA, stating he slept through his hearing date. Chairman MacKay denied the request. Approved as drafted 3-0.*

**11. Citation 16135** issued to Steven Daniel Marks for violation of NAC 706.376. (AJM)  
*Respondent requested reduction of the fine to \$50. Order approved as drafted 3-0.*

**12. Citation 15747** issued to Yohanes Habte Abraha for violations of NAC 706 as amended by LCB File No. R127-07(1) and NAC 706.228(3) as amended by LCB File No. R127-07. (MBM)  
*This item was removed prior to consideration.*

**13. Citation 15893** issued to Harvey Barnett for a violation of NAC 706.228 as amended by LCB File No. R127-07. (MBM)

**14. Citation 16132** issued to Duane McElroy for a violation of NAC 706.376(10). (MBM)

**15. Citations 15663 and 15664** issued to La Familia Towing, Inc. for violations of NAC 706.247/49 CFR 391.51(b)(4) (5 counts), NAC 706.247/49 CFR 391.51(b)(6) (5 counts), NAC 706.247/49 CFR 391.51(7)(i) (2 counts) and NAC 706.247/49 CFR 382.301(a) (2 counts). (MBM)

**16. Impound 1570 and Citation 15891** The impoundment pursuant to NRS 706.476 of the vehicle registered to and Citation 15891 issued to Dane Ngahuka for violations of NRS 706.386 and NRS 706.758. (MBM)

**17. Citations 15222, 15223, 15522, 15501, 15502, 15585 and 15587** issued to Silver State Towing, Inc. for violations of NAC 706.247; NAC 706.194; NAC 706.206; and NRS 706.398. (GA)

**18. Citations 15390, 15392 and 15393** issued to Christian Enterprises, Inc. d/b/a Pro Towing for violations of NAC 706.247/49 CFR 382.301(a), NAC 706.247/49 CFR 391.31(a), NAC 706.247/49 CFR 391.23 (a)(b), NAC 706.247/49 CFR 391.25 (a)(c), NAC 706.247/49 CFR 391.27 (a)(d) and NAC 706.247/49 CFR 391.21(a)(b). (GA)

*Administrative Attorney Jim Day recommended adding information to the file and draft order regarding remedial actions. Approved 3-0 with addition of language describing remedial efforts.*

**19. Citation 15564** issued to Best's Towing for violation of NAC 706.191. (GA)

- 20. Citation 15622** issued to C & J Development Enterprises d/b/a Custom Towing for violations of NRS 706.4477 (41 counts) and NAC 706.432 (41 counts). (GA)
- 21. Citation 15735** issued to Custom Towing for violation of LCB File No. R075-08. (GA)
- 22. Citation 15882** issued to Rodi Mikha/777 Towing for a violation of NRS 706.758. (GA)
- 23. Citation 15887** issued to Alex VanAlen for violations of NRS 706.386 and NRS 706.758. (GA)
- 24. Citation 15976** issued to Lorenzo Madison White for violations of NAC 706.228(5) as amended by LCB File No. R127-07 and of NAC 706.247/49 CFR 391.41. (GA)
- 25. Citations 16026, 16027, 16028 and 16029** issued to Knight Limo Services, Inc. for violations of NAC 706.229.1(b)(2), NAC 706.229(2), NAC 706.203, NAC 706.279, NAC 706.311, NAC 706.247/49 CFR 396.3, NAC 706.247/49 CFR 396.5 and NAC 706.247/49 CFR 396.11. (GA)  
*Items 25, 26 and 27 were considered collectively.*
- 26. Citations 16030, 16031 and 16032** issued to Pahrump Valley Taxi, Inc. for violations of NAC 706.229.1(b)(2) (6 counts), NAC 706.229.2/49 CFR 391.27 (6 counts), NAC 706.247/49 CFR 40.25 (5 counts), NAC 706.247/49 CFR 382.301 (3 counts), NAC 706.203 and NAC 706.279. (GA)  
*Items 25, 26 and 27 were considered collectively.*
- 27. Citations 16033 and 16034** issued to Sovereign Entities, Inc. d/b/a Aquarius Towing for violations of NAC 706.247/49 CFR 391.51, NAC 706.247/49 CFR 391.43 and NAC 706.247/49 CFR 382.301. (GA)  
*Items 25, 26 and 27 were considered collectively.*  
*Administrative Attorney Jim Day recommended adding information to the files and draft orders regarding remedial actions. Approved 3-0 with addition of language describing remedial efforts.*
- 28. Citation 16035** issued to Karen Crispell for violations of NRS 706.386 and NRS 706.758. (GA)
- 29. Impound 1899.** The impoundment pursuant to NRS 706.476 of a vehicle registered to Charles Rodriguez. (GA)
- 30. Impound 1567 and Citation 15889** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15889 issued to David Hensey for violations of NRS 706.386 and NRS 706.758. (GA)
- 31. Impound 1569 and Citation 15890** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15890 issued to Larry Toombs/Hook and Deliver for violations of NRS 706.386 and NRS 706.758. (GA)
- 32. Impounds 1580 and 1581 and Citation 15896** The impoundment pursuant to NRS 706.476 of two vehicles registered to and Citation 15896 issued to Robert Sewell for violations of NRS 706.386 and NRS 706.758. (GA)
- 33. Impound 1582 and Citation 15897** The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15897 issued to Erin Kelly for violations of NRS 706.386 and NRS 706.758. (GA)
- 34. Citation 15717** issued to Ashley's Towing for violations of NRS 706.4477 and NAC 706.279.

- 35. Citations 15723 and 15724** issued to CLS Nevada, LLC for violations of NAC 706.140, NAC 706.203, NAC 706.247/49 CFR 395.1(e) (251 counts) and NAC 706.311 (446 counts).  
*Commissioner Metz inquired as to remedial actions for the .311 violations. Senior Deputy General Newton detailed the origins of the .311 violations and remedial actions. Kimberly Maxson-Rushton, Esq. described the CLS operations at MGM properties and circumstances that qualify for various rate categories and further detailed remedial efforts of the carrier. Commissioner Metz noted that NAC requires full prepayment of settlement agreements. Senior Deputy Attorney General Newton noted that the Authority can grant pursuant to NAC 706.1305 a deviation from the prepayment requirement. Pursuant to .1305, deviation granted and draft order approved 3-0.*
- 36. Citations 15733 and 15734** issued to Royalty Limos, LLC d/b/a Royalty Limos for violations of NAC 706.311 (13 counts), NAC 706.247/49 CFR 395.1(e) (175 counts), NAC 706.354 (6 counts) and NAC 706.140.  
*Commissioner Metz inquired as to remedial actions. Kimberly Maxson-Rushton, Esq. described remedial actions, stating Royalty Limos utilizes the CLS program enumerated in the previous item. Approved 3-0.*
- 37. Citation 15748** issued to Michael Trent Billerbeck for violations of NAC 706.329 and NAC 706.354.
- 38. Citations 15806 and 15807** issued to Quality Towing for violations of NAC 706.418 as amended by LCB File No. R075-08 (6 counts) and of NAC 706 as amended by LCB File No. R075-08 (17 counts).
- 39. Citation 15833** issued to On Demand Sedan Service Inc. for violations of NAC 706.311 and NAC 706.228(3) as amended by LCB File No. R127-07.
- 40. Citations 15842, 15843 and 15837** issued to Desert Cab Inc. d/b/a Odyssey Limousine for violations of NAC 706.360 (33 counts), NAC 706.311 (572 counts), and NAC 706.247/49 CFR 395.1(e) (12 counts).  
*Commissioner Metz inquired as to the remedial actions. Brent Carson, Esq. described the remedial actions taken. Approved 3-0.*
- 41. Citations 15844 and 15845** issued to On Demand Sedan Service, Inc. for violations of NAC 706.311 (1659 counts), NAC 706.247/49 CFR 395.1(e) (11 counts), and NAC 706.228(3) as amended by LCB File No. R127-07.  
*Commissioner Metz inquired as to the remedial actions. Brent Carson, Esq. described the remedial actions taken. Approved 3-0.*
- 42. Citation 15876** issued to Quality Towing for violations of NAC 706.420 and NAC 706 as amended by LCB File No. R075-08.
- 43. Citation 15888** issued to Mamo Gesessew for a violation of NAC 706.228(3) as amended by LCB File No. R127-07.
- 44. Citation 15894** issued to Joseph Spagnolo for a violation of NAC 706.228(3) as amended by LCB File No. R127-07.
- 45. Citation 15895** issued to Kassahun Chane for a violation of NAC 706.228(5) as amended by LCB File No. R127-07.
- 46. Citation 15898** issued to Branimir Ivanov for violations of NAC 706.228(3) as amended by LCB File No. R127-07 and NAC 706.228(4) as amended by LCB File No. R127-07.

- 47. Citation 15899** issued to Senait Mekonnen for violations of NAC 706.228(3) as amended by LCB File No. R127-07 and NAC 706.228(4) as amended by LCB File No. R127-07.
- 48. Citation 16133** issued to Donald Raymond Roy for a violation of NAC 706 as amended by LCB File No. R127-07(1).

**APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE CHARTER BUS SERVICE**

- 49. Docket No. 12-06019** The Application of Sin City Luxury Charters, LLC d/b/a Sin City Luxury Charters for a certificate of public convenience and necessity to provide charter bus service within the State of Nevada. Staff investigation concluded.
- Kimberly Maxson-Rushton, Esq. entered a verbal protest on behalf of the Livery Operators Association with respect to the carrier offering package deals on a per capita basis. Commissioner Metz requested an additional compliance item stating Staff will review type of operating authority being granted and website. Approved with additional compliance 3-0.*

**ADOPTION OF FEDERAL APPROVAL OF TRANSFER OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE CHARTER BUS SERVICE**

- 50. Docket No. 12-09019** The Authority will consider whether to adopt the United States Surface Transportation Board's approval of the sale and transfer of Certificate of Public Convenience and Necessity (hereinafter "CPCN") 2016, Sub 2 from CUSA K-TCS, LLC d/b/a CoachAmerica and CPCN 2115 from CUSA K-TCS, LLC d/b/a Gray Line Airport Shuttle to Evergreen Trails, Inc. d/b/a Horizon Coach Lines. Staff investigation concluded.
- In light of the protest recently filed by the Livery Operators Association in the matter, Administrative Attorney Day recommended that the matter be tabled until next general session, with a hearing officer to be assigned and a briefing schedule to issue to the parties. By a vote of 3-0, the Authority adopted Mr. Day's recommendations.*

**APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE TOW CAR SERVICE**

- 51. Docket No. 12-02020** The Joint Application of Susan A. Carr for authority to sell and transfer and of Harold L. Carr to purchase and acquire 50% of Indian Springs Towing, a carrier authorized to provide on-call irregular route transportation of vehicles requiring tow car service by tow car vehicle within the State of Nevada under CPCN 3327. Staff investigation concluded.
- Items 51, 52 and 53 were considered collectively.*
- 52. Docket No. 12-02021** The Joint Application of Harold L. Carr for authority to transfer and of the HLC Living Trust to acquire Indian Springs Towing, a carrier authorized to provide on-call irregular route transportation of vehicles requiring tow car service by tow car vehicle within the State of Nevada under CPCN 3327. Staff investigation concluded.
- Items 51, 52 and 53 were considered collectively.*
- 53. Docket No. 12-02022** The Joint Application of the HLC Living Trust for authority to transfer and of Indian Springs Towing, LLC d/b/a Indian Springs Towing to acquire Indian Springs Towing, a carrier authorized to provide on-call irregular route transportation of vehicles requiring tow car service by tow car vehicle within the State of Nevada under CPCN 3327. Staff investigation concluded.
- Items 51, 52 and 53 were considered collectively. Jacqueline Carr was present on behalf of Applicant, she stated the Living Trust was converted to a Family Trust upon the death of Harold Carr. Approved 3-0.*

## **VOLUNTARY CANCELLATIONS**

**54. Docket No. 12-09008** The voluntary cancellation by Larry's Hauling and Towing, LLC of CPCN 7283. Staff investigation concluded.  
*Approved 3-0.*

## **PETITIONS FOR RECONSIDERATION**

**55. Docket No. 12-09009** Petition for Reconsideration of the Authority's August 23, 2012 Order in the matter of Citation 15878 issued to John V. Piccolella/Vegas Club Experience for a violation of NRS 706.758. Respondent argues that his failure to appear should be excused and a new hearing set. (GA) *Mr. John Piccolella appeared and requested a rehearing. Commissioner Assad recommended that the Petition be granted for a new hearing and the matter reset. Petition granted 3-0 with matter reset for hearing October 24 at 1:30 p.m.*

## **FINANCIAL RATES AND TARIFFS**

**56. Docket No. 11-11017 #49** The Application of Lostra Brothers Towing and Wreck Recovery Service, LLC for approval of a tariff rate modification for tow car services conducted under CPCN 7146. Staff investigation concluded.  
*Items 56 thru 59 were considered collectively.*

**57. Docket No. 11-11017 #69** The Application of The Tow Truck Company, Inc. for approval of a tariff rate modification for tow car services conducted under CPCN 7136, Sub 2. Staff investigation concluded.  
*Items 56 thru 59 were considered collectively.*

**58. Docket No. 11-11017 #79** The Application of Auto Partners, Inc. d/b/a Auto Guardian for approval of a tariff rate modification for tow car services conducted under CPCN 7140, Sub 1. Staff investigation concluded.  
*Items 56 thru 59 were considered collectively.*

**59. Docket No. 11-11017 #87** The Application of Brian Garner d/b/a Atlas Towing and Recovery for approval of a tariff rate modification for tow car services conducted under CPCN 7193. Staff investigation concluded.  
*Items 56 thru 59 were considered collectively. Approved 3-0.*

**60. Docket No. 12-08007-B** The Application of On Demand Services, Inc. d/b/a AAA ODS Limousine, ODS Limousine, ODS Chauffeured Transportation, and On Demand Sedan & Limousine for approval of a tariff rate modification for charter limousine services conducted under CPCN 1040, Sub 3. Staff investigation concluded.  
*Brent Carson, Esq. appeared on behalf of the Applicant and summarized the Application. A discussion ensued as to the verbiage to be used in the explanation of the rates. Sedan Rate Proposal A approved 3-0 with modifications noted.*

**61. Docket No. 12-08018** The Application of Five Star Limo, LLC d/b/a Five Star Limo for approval of a tariff rate modification for charter limousine services conducted under CPCN 1113. Staff investigation concluded.  
*Applications Manager Liz Babcock summarized the Application and indicated Staff support. Approved 3-0.*

**62. Docket No. 12-08019** The Application of Century Towing, Inc. for approval of a tariff rate modification for tow car services conducted under CPCN 7124, Sub 2. Staff investigation concluded. *Applications Manager Liz Babcock summarized the Application and indicated Staff support. Approved 3-0.*

**63. Docket No. 12-08022** The Application of Omni Limousine, Inc. for approval of a tariff rate modification for charter limousine services conducted under CPCN 1084, Sub 4. Staff investigation concluded.

*Applications Manager Liz Babcock summarized the Application and indicated Staff support. Approved 3-0.*

**64. Docket No. 12-08024** The Application of De Boer Brothers, Inc. d/b/a Big John's Towing, Inc. for approval of a tariff rate modification for tow car services conducted under Certificate of Public Convenience and Necessity 8001. Staff investigation concluded.

*Applications Manager Liz Babcock summarized the Application and indicated Staff support. Approved 3-0.*

**65. Docket No. 12-09004** The Application of Airline Limousine Corporation d/b/a Airline Shuttle Corp. for approval of a tariff rate modification for airport transfer services conducted under CPCN 2050, Sub 3. Staff investigation concluded.

*Chairman MacKay summarized the Application; Applications Liz Babcock discussed the changes and indicated Staff support. Approved 3-0.*

**66. Docket No. 12-09007** The Application of Main Gate Towing, LLC d/b/a Titan Towing. for approval of a tariff rate modification for tow car services conducted under CPCN 7257, Sub 1. Staff investigation concluded.

*Applications Manager Liz Babcock summarized the Application and indicated staff support. Approved 3-0.*

**67. Dockets No. 12-09012, 12-09013** At the request of Authority Staff, the Authority will consider, pursuant to NAC 706.305 and NRS 706.331, whether to order modifications to the tariffs of Bell Trans, A Nevada Corporation d/b/a Bell Trans and Bell Limousine (CPCN 1023, Sub2) and Presidential Limousine (CPCN 1007, Sub4), including but not limited to combining the \$2.00 airport security fee and the \$3.00 airport greet fee into a single \$5.00 "Airport Fee."

*Applications Manager Liz Babcock summarized the modifications and indicated Staff support. Kimberly Maxson-Rushton, Esq. discussed airport security fees (during heightened security situations) possibly being added to tariff language in the future. Approved 3-0.*

### **INVESTIGATION OF TARIFF RATES**

**68. Docket No. 12-09020** The Authority will discuss whether to open an investigation of certain rates set forth in the tariff of Ken Lehman Enterprises, Inc. d/b/a South Strip Towing (CPCN 7008). (AJM)

*Camilla Sparks, Collections Manager, and Peter Catron, Operations Manager, stated they are currently working through a tariff modification and plan to file within the next 30 days. John Rubens, AAA, stated his concerns with regard to the timely filing of a modification, as South Strip Towing is coming up on the NHP rotation in October and their rates are considerably higher. The carrier noted they are not up on rotation until November. A discussion ensued. It was determined that an investigation into the tariff rates would go forward as a tariff modification has not yet been submitted. Chairman MacKay assigned as Hearing Officer. Approved 3-0*

### **DISCUSSION ITEMS**

**69. Docket No. 12-09021** The Authority will discuss adding appropriate settlement fine schedule amounts for violations of NAC 706.376(11) (trip sheet) and NAC 706 as amended by LCB File No. R127-07(1) (unattended vehicle), and amending the settlement fine schedule amount for violations of NAC 706.247/49 CFR 391.41 and/or NRS 483.230 (no valid medical card, driver license, or CDL). (AJM, MBM)

*Chairman MacKay summarized the request made by Staff. A discussion ensued with respect to adding appropriate fine amounts for driver violations. The fines for unattended vehicle were added to the schedule and set at \$100 for first offense and \$200 for second offense within 3 years. Trip sheet violation regulation citation was added to the current trip sheet violation section with fines to remain the same. Failure to have a current medical card was adjusted to \$200 first offense and \$400 for second offense within 3 years. Approved 3-0.*

**70. Docket No. 12-09024** In response to an inquiry from Reno Cab Company, Inc. and Yellow Cab of Reno, Inc., the Authority will discuss whether vehicles ineligible to be added to the carriers' fleets pursuant to the mileage restrictions set forth in NRS 706.8834(3)(b) may nonetheless be eligible to serve as leased temporary replacement vehicles pursuant to NAC 706.208. (AJM)

*Chairman MacKay corrected the NRS cite as NRS 706.88345. Chairman MacKay disclosed ex-parte communication with Mr. Roy Street, Mr. Chip Bell and Stephen Bus, Esq., legal counsel for Reno Cab and Yellow Cab and offered to recuse himself. No one objected to the communication or requested his recusal. Mr. Bus summarized the inquiry and the reasoning behind it. Senior Deputy Attorney General Newton stated the statute on point states any vehicle that goes into service as a taxicab must be new or have less than 30,000 miles, whether it be for temporary replacement or permanent use. A discussion ensued as to the interpretation of the statute. Inquiry request DENIED 3-0.*

#### **71. Public Comment**

*John Rubens, AAA, questioned if there was a schedule of fines for tariff violations, and what formula is used to determine fines and or remedies. Senior Deputy Attorney General Newton discussed his method of determining fines and or remedies. Commissioner Metz directed Mr. Rubens to NAC 706.4017 for an outline of matters a hearing officer considers when determining fine amounts.*

### **TIME-SPECIFIC DISCUSSION ITEM**

**1:30 p.m.**

#### **72. Public Comment:**

*None.*

**73. Docket No. 12-07009** At the July 19, 2012 General Session of the Nevada Transportation Authority ("Authority") the Authority assigned Commissioner George Assad as Presiding Officer to gather information regarding the issue of whether "walk and tag" services provided by a tow carrier for a private property owner constitute a form of remuneration prohibited by NAC 706.442. The Presiding Officer will report his findings and recommendations based upon the public hearing held on September 13, 2012. (GA)

*Chairman MacKay introduced the item and welcomed Teri Williams, Public Information Officer for the Department of Business and Industry. Commissioner Assad again invited public comment, but no person offered comment. Commissioner Assad summarized the issue and his findings and recommendations. A discussion ensued with regard to "other consideration."*

*A motion was made that with respect to NAC 706.442, "walk and tag" is not a violation. Motion failed due to lack of a second.*

*A motion was made that with respect to NAC 706.442, "walk and tag" is a violation. Approved 2-1 with Commissioner Assad opposed.*



*A motion was made to allow “walk and tag” to continue until a rule-making docket can be opened and further Authority action determined. Approved 3-0. Commissioner George Assad assigned as Hearing Officer.*

#### **74. Public Comment**

*Drew Ribar, A & A Towing, submitted a letter regarding the reduction of a tow bill for law enforcement and requested the Authority investigate. Administrative Attorney Jim Day stated a docket has already been opened on the matter.*

*Clark Whitney, Tow Guys Towing, thanked the Authority for reviewing the “walk and tag” issue. Mr. David Walker, Walker Towing, stated he was not opposed to “walk and tag,” but rather that he opposed the way it is administered. His intent in bringing up the issue was not to cause hardship – only to determine the legality.*

#### **Adjournment**

*Meeting adjourned approximately 2:38 p.m.*